MONTANA LEGISLATIVE HISTORY

Chapter 271 19 85

Bill H _____ S 223 Original bill & history ____C

H. Committee on Natural Resources			S. Committee on Natural Resources		
Hearing Date(s)	Mar 15	✓ C	Hearing Date(s)	Jan 30	✓ C
		C		Feb 08	✓ C
		C			C
		C			C
Date Out	Mar 15	✓ C		Feb 08	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

SENATE FINAL STATUS

2/13 ON MOTION SEGREGATED FROM COMMITTEE OF WHOLE REPORT
2/14 2ND READING PASS 40
2/16 3RD READING PASS 38

TRANSMITTED TO HOUSE
2/27 REFERRED TO BUSINESS & LABOR
3/15 HEARING
3/18 COMM REPORT-BILL CONCURRED AS AMENDED
3/20 2ND READING CONCURRED 73
3/22 3RD READING CONCURRED 85

RETURNED TO SENATE WITH AMENDMENTS
3/27 2ND READING AMENDMENTS NOT CONCURRED 43
3/28 CONFERENCE COMMITTEE APPOINTED
4/16 CONFERENCE COMMITTEE DISSOLVED
4/16 FREE CONFERENCE COMMITTEE APPOINTED
4/20 FREE CONFERENCE COMMITTEE REPORT

SENATE
4/22 2ND READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 48
4/22 3RD READING FREE CONFERENCE COMMITTEE REPORT ADOPTED 44

HOUSE
4/23 2ND READING FREE CONFERENCE COMMITTEE REPORT NOT ADOPTED 54

DIED IN PROCESS

SB 222 INTRODUCED BY HAFFEY
REVISION OF LICENSING BOARDS DISCIPLINARY AUTHOR
- CIVIL FINES
BY REQUEST OF DEPARTMENT OF COMMERCE

1/22 INTRODUCED
1/23 REFERRED TO STATE ADMINISTRATION
1/28 FISCAL NOTE REQUESTED
2/01 FISCAL NOTE RECEIVED
2/13 HEARING 4
2/18 ADVERSE COMMITTEE REPORT
2/18 BILL KILLED

SB 223 INTRODUCED BY NEUMAN
PROVIDE FOR FILING WATER RIGHTS TRANSFER CERTIF
WITH DNRC
BY REQUEST OF DEPT. OF NATURAL RESOURCES

1/22 INTRODUCED
1/23 REFERRED TO NATURAL RESOURCES
1/24 FISCAL NOTE REQUESTED
1/30 HEARING
1/31 FISCAL NOTE RECEIVED
2/09 COMMITTEE REPORT-BILL PASS AS AMENDED
2/14 2ND READING PASS AS AMENDED
2/16 3RD READING PASS

TRANSMITTED TO HOUSE
2/27 REFERRED TO NATURAL RESOURCES
3/15 HEARING

3/18	COMMITTEE REPORT-BILL CONCURRED		
3/20	2ND READING CONCURRED	73	4
3/22	3RD READING CONCURRED	96	2
	RETURNED TO SENATE		
3/27	SIGNED BY PRESIDENT		
3/28	SIGNED BY SPEAKER		
3/28	TRANSMITTED TO GOVERNOR		
4/01	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 271 EFFECTIVE DATE: 7/01/85		

24 INTRODUCED BY VAN VALKENBURG, CHRISTIAENS, ET AL.
RAISING THE BOARD OF HOUSING BOND LIMIT TO
$975 MILLION
BY REQUEST OF DEPARTMENT OF COMMERCE

1/22	INTRODUCED		
1/23	REFERRED TO FINANCE & CLAIMS		
1/28	FISCAL NOTE REQUESTED		
1/30	HEARING		
1/31	COMMITTEE REPORT-BILL DO PASS		
2/02	2ND READING PASS	46	0
2/02	FISCAL NOTE RECEIVED		
2/05	3RD READING PASS	42	4
	TRANSMITTED TO HOUSE		
2/27	REFERRED TO BUSINESS & LABOR		
3/15	HEARING		
3/18	COMMITTEE REPORT-BILL CONCURRED		
3/22	2ND READING CONCURRED	81	5
3/25	3RD READING CONCURRED	92	8
	RETURNED TO SENATE		
3/30	SIGNED BY PRESIDENT		
4/03	SIGNED BY SPEAKER		
4/05	TRANSMITTED TO GOVERNOR		
4/10	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 403 EFFECTIVE DATE: 4/10/85		

25 INTRODUCED BY JACOBSON
EXEMPTS UNIVERSITY SYSTEM FROM CERTAIN DATA
PROCESSING LAWS, WITH EXCEPTION
BY REQUEST OF MONTANA UNIVERSITY SYSTEM

1/22	INTRODUCED		
1/23	REFERRED TO STATE ADMINISTRATION		
2/11	HEARING		
2/11	COMMITTEE REPORT-BILL DO PASS		
2/13	2ND READING PASS	50	0
2/15	3RD READING PASS	49	0
	TRANSMITTED TO HOUSE		
2/27	REFERRED TO STATE ADMINISTRATION		
3/15	HEARING		
3/15	COMMITTEE REPORT-BILL CONCURRED		
3/19	2ND READING CONCURRED	92	4
3/21	3RD READING CONCURRED	95	2

STATE OF MONTANA

REQUEST NO. FNN 228-85

FISCAL NOTE

Form BD-15

In compliance with a written request received January 24, 19 85, there is hereby submitted a Fiscal Note for Senate Bill 223 /corrected pursuant to Title 5, Chapter 4, Part 2 of the Montana Code Annotated (MCA). Background information used in developing this Fiscal Note is available from the Office of Budget and Program Planning, to members of the Legislature upon request.

DESCRIPTION OF PROPOSED LEGISLATION:

Senate Bill 223 proposes to amend the current procedure of processing water right transfer certificates.

ASSUMPTIONS:

1. Current water right ownership transfers number 1680 per year.
2. Compliance will increase threefold, thus transfers will number 5040 per year.
3. Current water right transfer problem solving costs $3,000 per year in personal services which will be eliminated under this law.
4. Current personal services for processing 1,680 transfers will cost $14,000 per year and are adjusted proportionately with the transfer increases.
5. Current operating expenses for processing 1,680 transfers will cost $3,000 per year and are adjusted proportionately with the tranfer increases.
6. The Water Rights Bureau currently receives $5.00 of each $10.00 transfer fee collected by the County Clerk and Recorder.
7. New listing of transfers required of County Clerk and Recorder will cost $1.00 per transfer ($5,040 per year).
8. Fees for water right transfers will be set at $10.00 per transfer by the Board of Natural Resources and Conservatio
9. Compliance checks is a new responsibility which will result in additional costs of $6,000 per year.
10. Elimination of return mail problems will decrease personal service costs by $1,000 per year.

David L Hunter

BUDGET DIRECTOR
Office of Budget and Program Planning

Date: JAN 31, 1985

SB 223
Corrected

FN5:B/3

FISCAL IMPACT:

	FY 86 Current	FY 86 Proposed	FY 86 Difference	FY 87 Current	FY 87 Proposed	FY 87 Difference
Expenditures						
Personal Services	$14,000	$38,000	$24,000	$14,000	$38,000	$24,000
Operations	3,000	14,040	11,040	3,000	14,040	11,040
TOTAL	$17,000	$52,040	$35,040	$17,000	$52,040	$35,040
General Fund	$ 8,600	$ 1,640	($ 6,960)	$ 8,600	$ 1,640	($ 6,960)
Earmarked Spec. Rev.	8,400	50,400	35,040	8,400	50,400	35,040

AFFECT ON COUNTY AND OTHER LOCAL REVENUE OR EXPENDITURES:

Fees and duties required of County Clerk and Recorder offices are reduced as owners would file initial water right transfers with the Department. The County Clerk and Recorder offices may experience cost increases associated with providing the Department with monthly lists of all transfers involving water rights.

LONG-RANGE IMPACT:

The cost for processing return mail will decrease each year as increased accuracy is realized in the water right owner records. Immediate savings from increased compliance will not be recognized until a higher percentage of the water rights record is updated. The Department's liability for not notifying existing water right owners of permit applications and decrees may decrease with a more accurate water right ownership record. Conversely if legislation fails, costs for return mail will increase each year compliance is not met.

TECHNICAL NOTE:

NONE

the exchange can take place, an investigation needs to be held. Section 77-2-216, MCA, currently requires that the Board of Land Commissioners issue a final order within 10 days of the hearing. The Board of Commissioners feels it is not possible for them to hold a hearing, conduct an investigation and prepare the results within this 10-day period. SB166 would eliminate the 10-day deadline.

PROPONENTS: Dennis Hemmer, Commissioner for the Department of State Lands, submitted written testimony (Exhibit 1). Mr. Hemmer feels that a major problem with meeting this 10-day deadline is the fact that the Board of Land Commissioners only meets once a month.

There being no further proponents and no opponents, the hearing on SB166 was opened to questions from the committee.

Senator Harding asked whether a deadline should be set up that would not be a hardship to the Board of Land Commissioners, rather than eliminating the deadline completely. Mr. Hemmer feels that since problems with mineral rights or problems obtaining clear title can take up to a year, any type of deadline would be virtually impossible for the Board of Land Commissioners to adhere to.

Senator Gage asked Mr. Hemmer if the Board of Land Commissioners was complying with the 10-day deadline at all. Mr. Hemmer stated it was not.

Senator McCallum stated that because the exchange involves public and private land of equal value, many times an appraisal of the land is needed. Through personal experience, Senator McCallum knows this appraisal can also take up to one year.

Senator Gage asked if there were many people who opposed exchanges of public and private land. Mr. Hemmer responded that although people often have questions concerning the exchange, there usually is no opposition involved.

There being no further questions from the committee, the hearing on SB166 was closed.

CONSIDERATION OF SB223: Senator Neuman opened the discussion by informing the committee that SB223 would provide for the filing of Water Right Transfer Certificates with the Department of Natural Resources (hereafter DNRC) rather than with the local Clerk and Recorder. Currently, when a party records a contract for the sale of real property with the Clerk and Recorder, they receive a Water Right Transfer Certificate which is to be completed and returned. Many times, these

certificates are not returned. SB223 would take the Clerk and Recorder out of this process and give the responsibility to the DNRC. The DNRC would forward a copy of the certificate to the Clerk and Recorder. Under DNRC's proposed system, if a Water Right Transfer Certificate is not filed within 60 days, the party will be contacted and, if necessary, a penalty will be assessed. An annual report, along with quarterly updates, would be provided to the Clerk and Recorder by the Department.

PROPONENTS: Mr. K. M. Kelly, representing the Montana Water Development Association, Montana Irrigators and Women in Farm Economics, supports SB223 with two amendments (Exhibit 2). Mr. Kelly feels there must be some record of water right transfers on the local level.

Gary Fritz, representing the DNRC, believes giving the responsibility to DNRC will enhance the quality of the water right transfer records throughout the state. Mr. Fritz feels that, at this time, neither the records of the DNRC nor of the Clerk and Recorders are accurate. Some water right transfers are filed without the correct owners, some sales of real property involve the transfer of only a portion of the water rights, and sometimes none of the water rights are to be sold with the land. DNRC feels it can more accurately monitor water rights transfers,because they have the original applications for water rights that were filed. Mr. Fritz stated that it is the intention of DNRC to send a copy of the Water Right Transfer Certificate to the Clerk and Recorder. Mr Fritz supports Mr. Kelly's amendments. Mr. Fritz also stated the Department would be available to assist landowners in completing Water Right Transfer Certificates.

Mike Stephens, representing the Montana Association of Clerk and Recorders, reinforced the fact that the Clerk and Recorders need to have an updated copy of all water right transfers. Mr. Zimmerman feels that since the Clerk and Recorders have always dealt with water rights, the public will continue to go to that office when they require information. Mr. Zimmerman stated that an annual report with quarterly updates would be sufficient to provide information to the general public. Mr. Zimmerman questioned why the penalties described on page 3, line 19, refer only to the Clerk and Recorder's office. Mr. Zimmerman proposed that the Clerk and Recorder's office not be subject to any penalties.

Ms. Sue Bartlett, Lewis and Clark County Clerk and Recorder, representing the Legislative Committee of Clerks Association, testified that the Water Rights Transfer Certificates have created many problems for Clerk and Recorders. Ms. Bartlett submitted a Water Rights Transfer Certificate (Exhibit 3) and the instructions for completing a Water Right Transfer Certificate (Exhibit 4). Ms. Bartlett testified that the collection of state and county fees for filing the certificates is also causing accounting problems. Ms. Bartlett told the committee that if the Clerk and Recorders were to receive a copy of every Water Right Transfer Certificate filed, this copy would only be used as a reference copy until the quarterly updates were issued. Ms. Bartlett believes that SB223 will increase the accuracy of water right transfers. She reminded the committee that it is vital the county offices receive accurate information on a regular basis from the DNRC.

There being no opponents to SB223, the hearing was opened to questions from the committee.

Upon questions from Senator Halligan, Senator McCallum stated he supports the amendments proposed by K. M. Kelly and Sue Bartlett.

Senator Fuller questioned Senator McCallum as to why the Clerk's office would need to receive updated information more often than quaterly. Senator McCallum replied that the public would need current information more often that quarterly.

Senator Harding questioned whether the list referred to on page 2, line 17, referred to the Realty Transfer Certificate or to a separate list. Mr. Fritz replied that the Department was willing to do whichever was easiest for the Clerk and Recorders. Senator Harding informed the committee that because purchase price information is on the Realty Transfer Certificate, the certificate in its entirety could not be sent to the Department. Senator Harding feels the Realty Transfer Certificate could be used only if the form is revised, such that the purchase price information is not available to the DNRC.

Senator Gage questioned Gary Fritz as to whether he was aware of any instances where water rights would be transferred without the exchange of real property. Mr. Fritz stated that case would involve a completely different process.

Chairman Eck questioned Ms. Bartlett as to what would be involved in preparing a list rather than relying on the Realty

Transfer Certificate. Ms. Bartlett explained that it would involve the names of the parties, the rights being transferred and the legal description of the land involved. It was agreed it would be better to revise the Realty Transfer Certificate.

There being no further questions from the committee, the hearing on SB223 was closed.

CONSIDERATION OF HJR5: Representative Asay opened the hearing by informing the committee HJR5 is the result of a meeting held in November 1984 in Bismark, North Dakota. At this meeting, the states of Montana, North Dakota, South Dakota and Nebraska agreed the responsibility of stabilizing the streambanks of rivers above Sioux City, Iowa, belongs to the Army Corps of Engineers as provided for in the Pick-Sloan Plan. Representative Asay feels the upstream states need to be compensated for lost lands. Representative Asay informed the committee that the House of Representatives amended the language to include the Montana Department of Fish, Wildlife and Parks as a supervisor of the stabilization process. Representative Asay stated that an amendment would be proposed to make certain that the stabilization process would utilize either rock or grass rather than cement walls as a means of stabilization (Exhibit 5). Representative Asay feels this stabilization was part of the original agreement in the Pick-Sloan Plan, and Montanans have a right to expect the Army Corps of Engineers to solve the problem of eroding streambanks.

PROPONENTS: Mr. K. M. Kelly, representing Montana Water Development and Montana Irrigators, testified that Montanans need the Army Corps of Engineers to fullfill its part of the Pick-Sloan Plan. He supports HJR5.

Dan Heinz, representing the Montana Wildlife Federation, submitted information to the committee (Exhibit 6) and stated he supports HJR5 with the proposed amendments.

Gary Fritz, representing the Department of Natural Resources and Conservation, supports the Resolution and proposed amendments. Mr. Fritz stated that Montana has never received any of the benefits promised by the Pick-Sloan Plan.

There being no further proponents and no opponents, the hearing on HJR5 was opened to questions from the committee.

Senator Fuller questioned why the DNRC would assist in the streambank stabilization program. Representative Asay replied that the DNRC has the criteria for approving any proposed

ROLL CALL

Natural Resources COMMITTEE

48th LEGISLATIVE SESSION -- 1985 Date 013085

SENATE SEAT #

NAME	PRESENT	ABSENT	EXCUSED
ECK, Dorothy (Chairman	✓		
HALLIGAN, Mike (Vice Chairman)	✓		
MANNING, Dave			✓
MOHAR, John	✓		
DANIELS, M. K.		✓	
FULLER, David	✓		
STIMATZ, Larry		✓	
TVEIT, Larry	✓		
GAGE, Delwyn	✓		
ANDERSON, John	✓		
SHAW, James	✓		
HARDING, Ethel	✓		

Each day attach to minutes.

DATE 013085

COMMITTEE ON Natural Resources

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One Support	Check One Oppose
K. M. Kelly	Mont. Water Develop. Assn Mont. Irrigators & W.I.F.E.	SB223	✓	
Dennis Hemmer	Dept of State Lands	SB 166	✓	
Gary Fritz	DNRC	SB223	✓	
Todd Hudak	MT. Assn. of Counties	~~HJR5~~	~~✓~~	
Pat Wilson	Montco / Thermal Energy			
Mike Stephen	MT Assn of Clerk & Re	SB223	✓	
Sue Bartlett	MT Assoc. of Clerk & Rec.	SB223	✓	

(Please leave prepared statement with Secretary)

NAME K.M. Kelly BILL NO. SB223

ADDRESS 4605 Glass - Helena DATE 1/30/85

WHOM DO YOU REPRESENT Mont. Water Development ASSN. Mont. Irrigators

SUPPORT ✓ w/amend. OPPOSE AMEND amend

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

Comments: The above organizations support this legislation with the following amendments:

1. 85-2-421 after "the" on line 19 add "the appropriate County Clerk and Recorder and"

2. 85-2-424 (4) on page 3 after "Judge" add "and the County Clerk and Recorder."

K.M. Kelly

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 8
DATE 013085
BILL NO. SB223

Form 608 R8/83

WATER RIGHT TRANSFER CERTIFICATE

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND WATER COURTS OF MONTANA

INSTRUCTIONS

You are encouraged to contact your area Water Rights Bureau field office listed on the back page of the Department Copy of this form or on page 2 of Form 608-I, Instructions for Water Right Transfer Certificate, for assistance in completing this form. This form is used to indicate a change in water right owners. **Do not use this form if you are a user of a municipal or irrigation district water system.** If more than one water right is transferred, list all the water right numbers on the appropriate lines in Item 1 or attach a list. Return the completed Water Right Transfer Certificate with the proper filing fee to your county clerk and recorder for recording.

FOR DEPARTMENT USE

Fee received: _____ By: _____
Transmittal No.: _____
Date: _____
Reviewed By: _____
Filmed: _____
Coded: _____
BASIN: _____

(type or print in ballpoint ink)

1. WATER RIGHT(S) TO BE TRANSFERRED:

- ☐ Permit to Appropriate Water Number(s) _____
- ☐ Certificate of Water Right Number(s) _____
- ☐ Statement of Claim Number(s) _____
- ☐ Powder River Decree Number(s) _____
- ☐ _____

2. MEANS OF TRANSFER:

- ☐ Deed recorded in: County _____
- ☐ Contract for Deed/Notice of Purchasers Interest recorded in: County _____
- ☐ Court Decree recorded in: County _____
- ☐ Other, explain: _____

3. IS THERE A DIVISION OR SPLIT OF THE WATER RIGHT(S)?

- ☐ Yes. If yes, complete the Addendum for Portional Transfers on the reverse side of the Department Copy of the Water Right Transfer Certificate. If a portion of more than one right is being received, complete an Addendum for each right being transferred.
- ☐ No. **Do not** complete the Addendum if you received the whole right(s).

4. OWNERS' NAMES: List the complete names (please print) and addresses of all persons who are to appear as owner of the water right(s). Include buyer's name(s), and seller's name(s) if they retain an interest in the water right(s).

Name _____ Mailing Address _____

Name _____ Mailing Address _____

Name _____ Mailing Address _____

Name _____ Mailing Address _____

5. SELLER'S NAME(S): List the seller's name and address if not listed in Item 4 above.

NAME: _____ MAILING ADDRESS: _____

6. OTHER INTERESTED PARTIES: List the names and addresses other than the above persons who are to receive notice of adjudication proceedings concerning the water right(s).

Name _____ Mailing Address _____

Name _____ Mailing Address _____

7. CERTIFICATE OF ACKNOWLEDGMENT: The Seller and Buyer must sign the back page of the Water Right Owners copy, and have it notarized. The clerk and recorder must complete the recording information at the bottom of the same page.

NOTE TO COUNTY CLERK AND RECORDER:

Record only the Water Right Owners copy. (DO NOT RECORD the Department's copy or Water Courts copy.) Please answer the question below.

Has the Water Right Owners copy been recorded? ☐ Yes, ☐ No.

By _____ or _____
Deputy Clerk and Recorder

MAIL THE Department Copy, to: Department of Natural Resources and Conservation, 32 S. Ewing, Helena, Montana 59620; and the Water Court Copy to: Chief Water Judge, Box 1568, Bozeman, Montana 59715.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 3
DATE 013085
BILL NO. SB223

DEPARTMENT'S COPY

STATE OF MONTANA

County of _____ SS

SELLER SIGNATURE: _____

Signed this _____ day of _____, 19____

On this _____ day of _____, 19_____, before me _____, a Notary Public for the State of Montana, personally appeared _____

_____

known to me to be the person _____ whose name _____ subscribed to the within instrument and acknowledges to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

Notary Public for the State of Montana

Residing at _____

My Commission expires _____

B. **BUYER:**

STATE OF MONTANA

County of _____ SS

BUYER SIGNATURE: _____

Signed this _____ day of _____, 19____

On this _____ day of _____, 19_____, before me _____, a Notary Public for the State of Montana, personally appeared _____

_____

known to me to be the person _____ whose name _____ subscribed to the within instrument and acknowledges to me that _____ executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my Notarial Seal the day and year first above written.

_____

Notary Public for the State of Montana

Residing at _____

My Commission expires _____

(For County Use Only)

STATE OF MONTANA

County of _____ SS

Filed for record this _____ day of _____, 19_____, at _____, and Recorded in _____ of the Records of _____ County, state of Montana.

By _____ _____

Deputy Clerk and Recorder

Form 608—I
N 8/83

INSTRUCTIONS
FOR WATER RIGHT TRANSFER CERTIFICATE

DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION AND WATER COURTS OF MONTANA

The purpose of documenting the buyer's ownership of the water right(s) is to ensure that the buyer will receive notice of any new water right applications the Department receives which may affect his right, or notice of adjudication proceedings on any claims of existing water rights he received. The Water Right Transfer Certificate required by Senate Bill No. 401 (passed in the 48th Legislative Session) is to be completed, signed by both the buyer and seller and recorded at the county clerk and recorders office.

Once recorded, copies of the Water Right Transfer Certificate will be sent by the county to the new owner, the Department of Natural Resources and Conservation, and to the Chief Water Judge of Montana. If any information on the certificate is deficient, the Department will be in contact with the buyer before the state centralized water record system is changed. Once the record is changed, the buyer will receive an Acknowledgement of Transfer from the Department.

If the buyer receives an interest in an Exempt Existing Water Right and wishes to be entered into the Department's central water right record system as the current owner of the right, the Water Right Transfer Certificate may be filed directly with the Department. In doing so, the buyer will be notified of any new water right applications which may affect his water right. An Exempt Existing Water Right is a right to groundwater or instream flow for domestic or stockwatering purposes which originated prior to July 1, 1973.

WHO MUST FILE:

Any individual, corporation, partnership, business organization or trust who is receiving an interest in: a Claim of Existing Water Right, Permit to Appropriate Water, Certificate of Water Right or a Powder River Decreed Right, must file the Water Right Transfer Certificate. Any person who uses water from a municipal water system or has shares in a water district is not to file this form. The water right is held by the municipality or water district.

WHERE TO FILE:

The Water Right Transfer Certificate must be recorded in the county in which your Realty Transfer Certificate is filed.

WHEN TO FILE:

The Water Right Transfer Certificate should be recorded within 30 days of completion of the Realty Transfer Certificate. The sooner the buyer's name is in the Department's record as owner of the right, the sooner he will be included on any notices concerning his right.

HOW TO FILE:

When completing the Water Right Transfer Certificate, you are encouraged to use the available assistance and records at the Water Rights Bureau field offices listed on the back page of these instructions. Complete each item as follows and return the Water Right Transfer Certificate with the proper filing fee to the county clerk and recorder's office for recording.

Item 1: Identify the type of water right(s) being transferred and its number(s). If more than one right is being transferred and if you can not list all of the rights on the Transfer Certificate, attach a list. Your area Water Rights Bureau field office can provide this information.

Item 2: Identify by what means the buyer received interest in this water right(s). Indicate what type of instrument or deed evidenced a real estate transfer and where it is recorded.

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 4
DATE 013085

The excess power could then be sold to The Montana Power Company. Mr. Fasbender explained to Senator Shaw the rate at which the power would be sold to The Montana Power Company is currently being reviewed by the Public Service Commission, so he is unsure what the rate would be.

Senator Tveit questioned why the language was deleted on page 1, line 16-21, rather than just simply adding to the language already contained in the law. Mr. Fasbender replied the added language was inclusive of the previous language.

Senator Gage questioned why the State of Montana would want to give up this additional income to the private sector. Mr. Fasbender replied the State is not eligible for the tax credit. Senator Mohar replied the maximum credit a developer would receive from the State would be $125.

Senator Eck asked Mr. Berry if, since Mr. Pete Gross, one of the foremost proponents of the bill, was unable to come to Helena and testify, he knew what Mr. Gross's interests were. Mr. Berry stated Mr. Gross was interested in smaller projects under two megawatts which the State could not develop, such as the South Willow Creek near Pony, Montana, the Ruby Reservoir and the Tongue River Reservoir. Mr. Berry stated that if some of these smaller projects are not developed by private entities, they will never be developed.

Senator Gage asked if the projects had to be totally or partially completed before the tax credit can be realized. Senator Mohar stated that he did not have that information available, but he believes a tax credit could be realized as long as the necessary permits have already been obtained.

Chairman Eck granted permission for Pete Gross's written testimony to be submitted to the committee before action would be taken on SB272.

Senator Mohar closed the hearing by stating that hydropower is a clean, efficient way to produce electricity, and it is in the best interest of the State of Montana to pass SB272.

ACTION ON SB223: Bob Thompson submitted proposed amendments to SB223 to the committee (Exhibit 11). Senator Fuller moved the committee accept the proposed amendments. The motion carried unanimously.

ACTION ON HB81: Senator Fuller moved that HB81 BE CONCURRED IN. The motion carried.

Proposed Amendments to SB 223:

1. Page 1, line 20.
Following: "court"
Insert: "and the county clerk and recorder"

2. Page 2, line 25.
Following: "a"
Insert: "reference"

3. Page 3, line 1
Following: "judge"
Insert: "and to the county clerk and recorder in the county in which the transfer occurred."

4. Page 3, line 5.
Following: "department"
Insert: "and the county clerk and recorder"
Following: "processing"
Strike: "the copy of"

5. Page 3, line 19.
Following: "85-2-424"
Insert: "(1)"

SENATE NATURAL RESOURCES COMMITTEE
EXHIBIT NO. 11
DATE 020885
BILL NO. SB223

STANDING COMMITTEE REPORT

February 8, 1985

MR. PRESIDENT

We, your committee on Natural Resources

having had under consideration Senate Bill No. 223

First reading copy (white color)

(Neuman)

PROVIDE FOR FILING WATER RIGHTS TRANSFER CERTIFICATE WITH DNRC

Respectfully report as follows: That Senate Bill No. 223

be amended as follows:

1. Page 1, line 20.
Following: "court"
Insert: "and the county clerk and recorder"

2. Page 2, line 25.
Following: "a"
Insert: "reference"

3. Page 3, line 1
Following: "judge"
Insert: "and to the county clerk and recorder in the county in which the transfer occurred"

4. Page 3, line 5.
Following: "department"
Insert: "and the county clerk and recorder"
Following: "processing"
Strike: "the copy of"

5. Page 3, line 19.
Following: "85-2-424"
Insert: "(1)"

and, as so amended,

DO PASS

~~DO NOT PASS~~

Chairman.

MINUTES OF THE MEETING
NATURAL RESOURCES COMMITTEE
MONTANA STATE
HOUSE OF REPRESENTATIVES

March 15, 1985

The meeting of the Natural Resources Committee was called to order by vice-chairman Mike Kadas at 4:35 p.m. in Room 313-1 of the State Capitol.

ROLL CALL: Chairman Iverson and Reps. Harp and Peterson were excused; all other members were present.

SENATE BILL 223: Sen. Ted Neuman, District 21, introduced SB 223, which he sponsored at the request of the department of natural resources and conservation. Sen. Neuman explained that SB 223 calls for a change in the process of recording water right transfers, shifting from county clerk offices to the department. The basic process for a water rights transfer under SB 223 will stay the same, except that the transfer certificate will be filed with the department, and not with the county clerk and recorder, he said.

Sen. Neuman explained that a problem now exists because parties receiving a water rights transfer certificate often do not return that certificate to the department for recording, so department records are not up to date.

SB 223 allows that if a transfer certificate is not filed with the department within 60 days of the time it is received, the department will contact the certificate holder and take legal action if there is no response.

PROPONENTS: Gary Fritz, legal counsel for the department of natural resources and conservation, said the department supports SB 223. He stressed that water rights transfers do not require department approval, and that the changes made under the bill would simply make administration and record keeping easier for the department, and not require additional difficulties for the public.

Sue Bartlett, Lewis and Clark County clerk and recorder, spoke in favor of SB 223 on behalf of the state association of clerks and recorders. She said recordation of water rights at the county level causes as many problems for county clerks as it does for the DNRC. She said water rights transfer certificates are currently completed on a triplicate form, and county clerks have the burden of making sure that each part of the form reaches the proper office. Under SB 223, she said, the department will be assured of knowledge of which transfer certificates they should receive without relying on county clerks to forward those certificates.

There were no further proponents to SB 223, and no opponents.

Rep. Cobb questioned Mr. Fritz about the penalties for noncompliance with SB 223, asking if those penalties would be excepted for good reason. Fritz replied that the intent of the bill is to make sure water rights information is kept up to date, and that although the department has the authority to take legal action, such action is neither mandatory nor likely.

Rep. Cobb agreed to carry the bill on the House floor.

Sen. Neuman closed by saying that SB 223 would provide more accurate and up to date water rights information statewide, and that county clerks would still have access to all the water rights information they need.

SENATE BILL 272: Sen. John Mohar, District 1, introduced SB 272, which he sponsored at the request of the department of natural resources and conservation. He said the bill was written to clarify the eligibility and license compliance provisions for development of hydroelectric power generation facilities at state-owned water projects. The bill contains three major provisions, which the sponsor outlined. First, SB 272 would expand the number of prople who can bid on hydroelectric power generation sites by removing the restriction stating that only utilities, electric cooperatives, or the corps of engineers can negotiate such contracts. Second, the bill would remove the requirement that the department must hold a FERC license on all such projects. Third, the bill provides that a person can submit an application for a small scale facility, and that the department may review and take action on such an application.

PROPONENTS: Gary Fritz, legal counsel for the department of natural resources and conservation, spoke in support of SB 272. He said that through SB 272, the legislature has recognized that state-owned water projects are an asset. The process for licensing the operation of these water projects has severely restricted the number of entities that can apply, he said. SB 272 would open that application process to more people, and enhance the possibility of water project construction and financial gain, said Mr. Fritz.

Peter Gross, of Pony, president of the Montana Small Hydropower Association, said that group supports SB 272. He said that small developers can currently receive federal licenses to develop water projects, but state law prevents them from doing so. He said that people who work in the area of small hydrodevelopment are looking for exactly the sort of project outlined in SB 272, that is, a project too small to attract utilities or electric cooperatives. The bill would allow small developers to take on these projects, and would allow the state to recoup lost money and potential electric power.

There were no further proponents, and no opponents to SB 272.

Rep. Miles asked Mr. Fritz to explain the provisions of Section 2 of SB 272. Mr. Fritz said that current Montana law requires that the state must hold the FERC license on all state owned water projects. However, hydrodevelopers need that license to do business, and therefore are shut out of such projects. Under the provisions of SB 272, those small hydrodevelopers would be allowed to hold the FERC license.

There were no further questions.

Representative Kadas agreed to carry the bill on the House floor.

Sen. Mohar closed by encouraging the committee to support SB 272 as a means of development a clean, renewable resource.

EXECUTIVE ACTION

SENATE BILL 272: Rep. Miles moved that SB 272 BE CONCURRED IN, and that motion was unanimously approved.

SENATE BILL 223: Rep. Grady moved that SB 223 BE CONCURRED IN, and that motion was unanimously approved.

The committee then returned to public hearing, and opened on SB 359.

SENATE BILL 359: SB 359 was introduced by the sponsor, Sen. Bill Yellowtail, District 50. Sen. Yellowtail explained that he introduced SB 359 at the request of the department of state lands, and that the bill amends the strip and underground mine reclamation act to make state requirements as strict as federal requirements.

PROPONENTS: Dennis Hemmer, representing the department of state lands, spoke in favor of SB 359, saying the bill would protect the state's environment without burdening operators with "outrageous costs." A copy of his testimony is attached as Exhibit 1.

Jim Mockler, speaking on behalf of the Montana Coal Council, supported SB 359.

There were no opponents to SB 359, and no questions from committee.

Sen. Yellowtail closed by asking the committee's support for this "straightforward" legislation. Rep. Miles agreed to carry the bill on the floor of the House.

DAILY ROLL CALL

HOUSE NATURAL RESOURCES COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date MARCH 15, 1985

NAME	PRESENT	ABSENT	EXCUSED
IVERSON, Dennis (Chairman)			X
KADAS, Mike (Vice-Chairman)	X		
ADDY, Kelly	X		
ASAY, Tom	X		
COBB, John	X		
DRISCOLL, Jerry	X		
GARCIA, Rodney	X		
GRADY, Edward	X		
HARP, John			X
JONES, Tom	X		
KRUEGER, Kurt	X		
MILES, Joan	X		
MOORE, Janet	X		
O'HARA, Jesse	X		
PETERSON, Mary Lou			X
RANEY, Bob	X		
REAM, Bob	X		
SMITH, Clyde	X		

CS-30

STANDING COMMITTEE REPORT

MARCH 15 19 85

MR. SPEAKER:

We, your committee on NATURAL RESOURCES

having had under consideration SENATE BILL 223 Bill No.

THIRD reading copy (BLUE)
color

AN ACT PROVIDING FOR THE FILING OF WATER RIGHT TRANSFER CERTIFICATES WITH THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION

Respectfully report as follows: That SENATE BILL 223 Bill No.

DO CONCURRED IN

~~DO PASS~~

Rep. DENNIS IVERSON, Chairman.

COMMITTEE SECRETARY

STATE PUB. CO.
Helena, Mont.

VISITORS' REGISTER

NATURAL RESOURCES COMMITTEE

BILL NO. SB 223 DATE MARCH 15, 1985

SPONSOR Sen. Neuman

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Gary Fritz	Helena DNRC	X	
Joe Bartholow	MT Assoc. of Clerks & Recorders	X	
Bob Robinson	DNRC	X	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.